

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

10 STEVEN GALAVIZ,

Petitioner,

V.

13 | DAVE DAVIES, Warden,

Respondent.

Case No. CV 15-5546-JVS (KK)

ORDER ACCEPTING FINDINGS AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE

17 Pursuant to Title 28 of the United States Code, section 636, the Court has
18 reviewed the Petition for a Writ of Habeas Corpus, the records on file, and the
19 Final Report and Recommendation of the United States Magistrate Judge. No
20 objections have bee filed. The Court accepts the findings and recommendation of
21 the Magistrate Judge.

22 In his Traverse, Petitioner requests an evidentiary hearing. However, in
23 habeas proceedings, “an evidentiary hearing is not required on issues that can be
24 resolved by reference to the state court record.” Totten v. Merkle, 137 F.3d 1172,
25 1176 (9th Cir. 1998); see also Earp v. Ornoski, 431 F.3d 1158, 1173 (9th Cir. 2005).
26 “It is axiomatic that when issues can be resolved with reference to the state court
27 record, an evidentiary hearing becomes nothing more than a futile exercise.”
28 Totten, 137 F.3d at 1176. Here, the Magistrate Judge concluded all of Petitioner’s

1 claims could be resolved by reference to the state court record. Accordingly, the
2 Court denies Petitioner's request for an evidentiary hearing.

3 IT IS THEREFORE ORDERED that Judgment be entered (1) denying the
4 Petition for a Writ of Habeas Corpus; and (2) dismissing this action with prejudice.

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6 Dated: June 08, 2016
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8 HONORABLE JAMES V. SELNA
9 United States District Judge
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